
Remarks

Claims 35-51 were pending in the instant application. Claims 36-42, 45-47 and 49 have been canceled. Claims 35, 43 and 44 have been amended to recite that the package of disposable absorbent articles includes absorbent articles having elastic ear tabs and the stemlike projections are releasably engaged with the elastic ear tabs. Support for these amendments appears in the specification at page 11, lines 5-27. Claims 52-57 have been added to more clearly recite the different manners in which the hook material may be releasably engaged with the absorbent article to provide the claimed pant-like structure. Support for these amendments appears in the specification at page 10, lines 29-36. The specification has been amended to capitalize all trademarks. Applicants assert that such trademarks are well known to those skilled in the art and defined in the literature. No new matter is added by these amendments. Accordingly, claims 35, 43, 44, 48 and 50-57 form the subject matter of this response.

By way of the Office Action mailed May 8, 1998, the Examiner rejected claims 35-51 under 35 U.S.C. § 102(b) or 103 as allegedly being anticipated by or obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,176,670 issued January 5, 1993, to Roessler et al. (hereinafter "Roessler") in view of U.S. Patent No. 4,894,060 issued January 16, 1990, to Nestegard (hereinafter "Nestegard"). These rejections are respectfully **traversed** to the extent they may apply to the presently presented claims.

Roessler describes disposable absorbent article which includes a refastenable mechanical fastener system for closing and opening the waistband. The fastener comprises a hook and loop type fastener. The hook material is preferably mounted to the ears of the article at the rear waistband. The loop material is mounted on the front waistband and is configured to releasably engage the hook material to secure the absorbent article about the waist of a wearer. At column 9, lines 21-27, Roessler teaches that the hook material may be folded inwardly to lightly grip the topsheet material when the article is packaged prior to use.

The rejected claims, as amended, are directed to a package of disposable absorbent articles which include an outer cover, a bodyside liner, an absorbent core disposed between the outer cover and the bodyside liner, and at least one hook-and-loop type mechanical fastener. The mechanical fastener includes a hook material which includes a base sheet and stemlike projections extending from the base sheet. The stemlike projections are releasably engaged with

the disposable absorbent article to protect the hook material. Independent claim 35, as amended, recites that the base of the hook material is attached to an elastic ear tab and the stemlike projections of the hook material are releasably engaged with the elastic ear tab of the absorbent article prior to use. Independent claim 48 recites that the stemlike projections of the hook material are releasably engaged with the absorbent article to protect the stemlike projections and provide a pant-like structure before the absorbent article is handled by a user. Claims 50-57 ultimately depend from claim 48 and further recite different arrangements by which the stemlike projections are releasably engaged with the absorbent article to provide the pant-like structure before the absorbent article is handled by a user.

The Examiner maintains that Roessler teaches an absorbent article which includes a hook-and-loop type fastener wherein the hook material is releasably engaged with the loop material on the outer cover of the article. However, Applicants assert that Roessler neither describes nor suggests a package of disposable absorbent articles which include hook-and-loop type fasteners wherein the stemlike projections of the hook fasteners are protected as recited in the amended claims.

With respect to independent claim 35 and claims 43 and 44 which depend therefrom, Applicants assert that Roessler fails to describe or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fasteners wherein the base of the hook material is attached to an elastic ear tab on the absorbent article and the stemlike projections of the hook material are releasably engaged with the elastic ear tab to protect the stemlike projections before the article is handled by a user. In particular, Applicants assert that Roessler fails to describe or suggest an elastic ear tab which is attached to and extends from at least one of the outer cover and bodyside liner of the absorbent article as described in the instant application and recited in the rejected claims. Instead, Roessler, at column 5, line 55 through column 6, line 13, teaches that the fasteners are attached to ear portions of the diaper which are provided by the backsheet and topsheet of the diaper. Moreover, since Roessler fails to describe or suggest an elastic ear tab which is attached to and extends from at least one of the outer cover and bodyside liner of the absorbent article, it follows that Roessler fails to describe or suggest that the stemlike projections of the hook material are releasably engaged with such an elastic ear tab to protect the stemlike projections before the article is handled by a user. As such, Applicants assert that Roessler can not be said to anticipate claims 35, 43 and 44.

With respect to independent claim 48 and claims 50-57 which ultimately depend therefrom, Applicants assert that Roessler fails to describe or suggest a package of disposable absorbent

articles which include a hook-and-loop type mechanical fastener wherein the stemlike projections of the hook material are releasably engaged with the absorbent article to protect the stemlike projections and provide a pant-like structure before the article is handled by a user. Instead, Roessler teaches that the hook material of the diaper may be releasably engaged with the loop material on the front waistband during use or may be folded inwardly to lightly grip the nonwoven material of the topsheet of the diaper prior to use. Roessler describes the topsheet of the diaper as being the inside liner sheet which is in contact with the skin of the wearer during use. As a result, releasably engaging the hook material prior to use as taught by Roessler would not provide a package of absorbent articles having a pant-like structure as recited in the rejected claims.

Moreover, since Roessler fails to describe or suggest a package of disposable absorbent articles having such a pant-like structure prior to use, it follows that Roessler fails to describe or suggest the different manners in which the hook material may be releasably engaged with the absorbent article to provide the claimed pant-like structure as set forth in claims 50-57. For example, with respect to claims 50, 54 and 55, Applicants assert that Roessler fails to describe or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fastener wherein the stemlike projections of the hook material are releasably engaged with the loop material of the absorbent article to protect the stemlike projections and provide a pant-like structure before the article is handled by a user. Instead, Roessler teaches that the hook material of the diaper is releasably engaged with the loop material on the front waistband to open and close the waistband to secure the absorbent article about the waist of the wearer during use and not to protect the hook material or provide a pant-like structure prior to use.

Further, Applicants assert that Roessler does not suggest and the Examiner has failed to provide any support why one skilled in the art would be motivated to make the changes to Roessler necessary to arrive at the claimed invention. Therefore, Applicants assert that Roessler does not anticipate or render obvious claims 35, 43, 44, 48 and 50-57, as amended.

Moreover, Nestegard fails to correct for the deficiencies of Roessler. Nestegard describes a hook fastener portion for a hook-and-loop type mechanical fastener which includes a flexible plate like backing and a plurality of resiliently flexible spaced hook members projecting at right angles from an upper surface of the backing. Nestegard, at Fig. 6 and column 6, lines 19-54, teaches a process for making the hook fastener which includes longitudinally stretching the base or backing between two pairs of nip rollers traveling at different speed. The stretching causes spaces between the hook portions of the hook fastener.

However, the combination of Roessler with Nestegard fails to teach or suggest the invention recited in the amended claims. That is, the combination of Roessler and Nestegard neither teaches nor suggests a package of disposable absorbent articles which include a hook-and-loop type mechanical fasteners wherein the base of the hook material is attached to an elastic ear tab on the absorbent article and the stemlike projections of the hook material are releasably engaged with the elastic ear tab. Nor does the combination of Roessler and Nestegard teach or suggest a package of disposable absorbent articles which include a hook-and-loop type mechanical fastener wherein the stemlike projections of the hook material are releasably engaged with the absorbent article to protect the stemlike projections and provide a pant-like structure before the article is handled by a user. Therefore, claims 35, 43, 44, 48 and 50-57, as amended, are patentable under 35 U.S.C. § 103 over Roessler in view of Nestegard.

In view of the above amendments and remarks, reexamination, reconsideration and withdrawal of the rejections of claims 35-51 under 35 U.S.C. § 102(b) and 103 are respectfully requested. Moreover, it is respectfully submitted that all of the presently presented claims are in form for allowance and such action is earnestly solicited.

Please charge any prosecutorial fees which are due to Kimberly-Clark Corporation deposit account number 11-0875. The undersigned may be reached at: (920) 721-8863.

Respectfully submitted,

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CERTIFICATE OF MAILING

I, JoAnn Breister, hereby certify that on August 10, 1998 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

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